

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

RICHARD D. EDWARDS,

Plaintiff,

vs.

CONSOLIDATED RESOURCES
HEALTH CARE FUND I.L.P.
and SARA DELAHOYDE,

Defendants.

8:16CV138

ORDER

This matter is before the court after a review of the court file and pursuant to NECivR 41.2, which states in pertinent part: “At any time, a case not being prosecuted with reasonable diligence may be dismissed for lack of prosecution.” Further, Federal Rule of Civil Procedure 4(m) establishes a 90-day time limit for service of process on any defendant in a civil case, absent a showing of good cause. Specifically, the rule mandates:

If a defendant is not served within 90 days after the complaint is filed, the court -- on motion or on its own after notice to the plaintiff -- must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m).

In this case the complaint was filed on March 30, 2016. **See** Filing No. 1. On the same date, the plaintiff applied to proceed without prepayment of filing fees and the court granted the plaintiff’s motions. **See** Filing Nos. 2 and 4. On July 5, 2016, the plaintiff sought summonses for the defendants, which summonses were issued. **See** Filing Nos. 5-7. The plaintiff has not yet filed any proof of service for the defendants. The plaintiff has taken no further action against any of the defendants. Neither of the defendants have made an appearance.

It remains the plaintiff’s duty to go forward in prosecuting the case. In this case, the time elapsed for service prior to the plaintiff seeking summonses as to the defendants. The plaintiff failed to seek an extension of the deadline to complete service

or provide an explanation for the delay. Under the circumstances, the plaintiff must make a showing of good cause for the failure of timely service or the action must be dismissed against the defendants. Upon consideration,

IT IS ORDERED:

The plaintiff has until the close of business on **July 28, 2016**, to file with the Clerk of Court evidence of service for the defendants or show cause why this case should not be dismissed as against the defendants.

Dated this 18th day of July, 2016.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge